



Lehigh Valley Planning Commission

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October 23, 2026

Nick Graziano, Manager
Upper Mount Bethel Township
387 Ye Olde Highway
Mount Bethel, PA 18343

**Re: Zoning Ordinance Amendment - Data Centers
Upper Mount Bethel Township
Northampton County**

Dear Manager Graziano,

The amendment proposes to permit data centers, data center campuses and associated accessory uses by conditional use in the I-2 and I-3 Districts within the planned industrial park framework. It establishes standards for site design, infrastructure, environmental impacts, emergency coordination, construction and decommissioning.

The intent of the ordinance amendment advances *FutureLV: The Regional Plan* by addressing the impacts of an emerging land use on the environment, infrastructure, and community. The LVPC offers the following comments to support the Township in further strengthening its proposed regulations. Because several provisions implicate authority assigned by state law to other agencies, or extend beyond customary zoning performance standards, recommendations are also included to help strengthen the legal defensibility of the proposed protections under the Pennsylvania Municipalities Planning Code (MPC) and applicable law:

Utilities

The LVPC supports requiring applicants to disclose electrical demand, identify necessary upgrades and provide utility documentation explaining how the development will be served. However, the proposed Conditional Use Regulations establish conflicting requirements for when capacity must be available and verified, including a final electrical inspection before the facility is built. The LVPC recommends that the Township Solicitor evaluate the authority and timing for these requirements, particularly existing capacity for the entire development and contracts for utility upgrades before conditional use approval. Requirements should accommodate appropriate phasing, request information the utility can reasonably verify and remain focused on local land use impacts. The Township should rely on utilities and responsible regulatory agencies for electric service and grid reliability determinations, and reconsider requiring an electric utility to certify the regional impacts of cooling and water systems. These revisions would support infrastructure coordination (of Policy 1.1) within the limits of municipal authority.

The proposed ordinance excludes facilities regulated as public utilities from the data center definition, but later sections establish requirements for substations, utility lines and electrical

infrastructure (§350-37.C, E, K and L). The LVPC recommends reconciling these provisions and having the Township Solicitor evaluate their application under MPC §619 and other applicable law. Municipal authority depends on the facility's ownership and function; utility-related facilities are not automatically exempt from zoning, but local requirements should not extend into utility design or operations beyond municipal authority. The North American Electric Reliability Corporation (NERC) reliability requirements noted in the ordinance should apply only to entities and equipment legally subject to those standards (§350-37.L.1(c)).

The LVPC also recommends clarifying when power generation and storage facilities qualify as accessory uses supporting a data center and when they constitute separate principal uses. Generation, battery storage and substations should have distinct definitions and clear approval requirements reflecting their different functions. The Township Solicitor should evaluate these provisions to ensure they address local land use impacts while respecting state and federal authority over utility operations and electricity markets.

Water Studies

The proposed ordinance requires a study of groundwater conditions within at least one mile of the property when public water is unavailable, including information about nearby wells and potential impacts. The LVPC recommends relating the study's scope to proposed water demand, local groundwater conditions and potential impacts, allowing reliable existing information and recognizing limits on access to neighboring properties. The Township Solicitor should evaluate these provisions to ensure that they support local land use review without regulating water withdrawals or allocations reserved to other agencies.

The proposed ordinance identifies water withdrawal and consumptive-use thresholds requiring Delaware River Basin Commission (DRBC) approval (§350-37.R.3). The LVPC recommends requiring documentation of applicable DRBC approval or a determination that approval is not required, rather than restating thresholds that may differ from applicable requirements or change over time. This would support water resource protection and an efficient development process (Policies 3.2 and 1.4).

The Township Solicitor should also evaluate the authority and timing for requiring each outside approval, in coordination with the responsible agencies. Act 58 of 2026 requires the water-supplier evidence specified in MPC §503.1 before final subdivision and land development approval beginning December 7, 2026; it does not establish a requirement to obtain every outside water permit before conditional use approval.

Cooling Technology

The proposed ordinance favors closed-loop cooling and, as a condition of allowing once-through cooling, requires non-contaminated cooling water to pass through an aerated surface basin before discharge off-site or into the ground (§350-37.W.4(c)). It also establishes requirements for managing cooling water and stormwater (§350-37.W.7). The LVPC recommends that the Township Engineer and Solicitor evaluate whether the required basin is appropriate for the proposed discharge and site conditions and consistent with applicable discharge permits. The

ordinance should allow professionally supported alternatives that meet water quality and temperature requirements and clearly distinguish process water containment from stormwater management. Review should consider actual water demand, evaporation and discharge volumes, because a closed-loop system may still consume substantial water. These refinements would support protecting water resources (of Policy 3.2).

Thermal and Environmental Standards

The proposed ordinance prohibits perceptible air, exhaust, heat, humidity and vibration at the property line (§350-37.Q.2-4). It also requires thermal studies and allows additional studies, equipment restrictions and mitigation where adverse heat impacts are anticipated (§350-37.BB). The LVPC recommends establishing clear measurement methods and compliance standards, including where measurements occur and under what operating conditions. Requirements should distinguish heat released into the air from temperature changes affecting water resources and identify when smaller facilities require additional study. The Township Solicitor should evaluate whether approval, monitoring and corrective-action requirements are sufficiently clear and proportionate to the impacts being addressed. Corrective action should be tied to a violation of an approved limit or condition, rather than any difference from a study's projections.

Electromagnetic Fields and Interference

The proposed ordinance references Institute of Electrical and Electronics Engineers (IEEE) and International Commission on Non-Ionizing Radiation Protection (ICNIRP) exposure standards and separately limits electromagnetic fields to two milligauss above background levels (§350-37.Q.3). It also requires measures to address interference with nearby electronic and communications equipment. The LVPC recommends obtaining a qualified technical assessment supporting the proposed local limit and clarifying how it relates to the referenced standards, including the frequencies and measurement methods used. The Township Solicitor should evaluate whether equipment design and interference requirements extend beyond municipal authority into utility or communications regulation. The ordinance should distinguish magnetic field exposure from interference with communications equipment and identify the appropriate agency coordination and corrective procedures.

Construction Codes and Fire Chief Authority

The proposed ordinance establishes requirements for equipment enclosures, fire resistance, automatic closures, fuel-cell systems and emergency radio coverage (§350-37.H, P and S). The LVPC recommends that the Township Solicitor and code officials evaluate these requirements against the Pennsylvania Uniform Construction Code (UCC) and the procedures for adopting more restrictive construction standards under the Pennsylvania Construction Code Act, including §503. Zoning provisions should clearly identify requirements for equipment location and emergency access, while construction and installation requirements should follow the applicable code process. References to technical standards should identify which adopted requirements apply.

The proposed ordinance also requires Fire Chief approval of safety plans, annual recertification and inspections, and applicant provision of specialized firefighting equipment (§350-37.H and

P.4). The LVPC supports emergency coordination and recommends specifying the required plan contents and review criteria while preserving the respective authority of the Board of Supervisors, Fire Chief and code officials. The Township Solicitor should evaluate the authority for requiring equipment purchases, with obligations based on documented facility needs and clear ownership and maintenance responsibilities. These refinements would support effective emergency planning (of Policy 5.1).

Solar Readiness

The proposed ordinance requires solar-ready roofs, reflective roofing meeting a specified standard throughout the building's life, and rooftop solar installations on buildings exceeding 200,000 square feet (§350-37.X). The LVPC supports the energy efficiency and heat reduction objectives and recommends that the Township Solicitor evaluate whether the Township has authority to require the proposed roof specifications and solar installations. The ordinance should clarify how compliance will be determined, accounting for usable roof area, structural capacity, emergency access, utility connections and maintenance. The requirement to supply as much facility power as feasible should be replaced with a clear standard supported by technical review. The Township is encouraged to consider incentives where mandatory requirements cannot be adequately supported.

Decommissioning

The proposed ordinance requires a decommissioning plan and identifies prolonged inactivity, ownership or lease changes, and other circumstances as events to which the requirements apply (§350-37.Y). The LVPC recommends clarifying that a change in ownership or tenancy requires updated responsibility and financial-security information, rather than closure or removal of an operating facility. The Township should reconcile the twenty-month inactivity provisions, establish notice and reasonable completion procedures, and clarify how much of the foundations must be removed (§350-37.Y.4(a)). Allowing safe buildings and infrastructure to remain for approved reuse would support responsible waste management and redevelopment (of Policies 3.2 and 5.4).

The proposed ordinance also requires financial security equal to 110% of estimated decommissioning costs for the facility's life, ongoing landscape-maintenance security, and post-construction sound testing linked to final escrow release (§350-37.Y.3, J.16 and C). The LVPC recommends that the Township Solicitor evaluate the authority for each obligation and distinguish these requirements from construction-improvement security governed by MPC §§509–510. Any authorized security should have clear terms for calculating and updating the amount, accessing funds and releasing the security. Ongoing operational compliance should not delay release of construction security beyond what applicable law permits.

Air Quality

The proposed ordinance recommends Tier IV or best-available generator technology, requires information about emissions and applicable permits, and prohibits perceptible air, dust, smoke and exhaust at or beyond the property line (§350-37.C, U.1(a) and Q.2). The LVPC recommends clarifying how the property line requirement would be measured and enforced, and

requiring applicants to identify applicable Pennsylvania Department of Environmental Protection (DEP) and U.S. Environmental Protection Agency (EPA) requirements. The Township Solicitor should evaluate the authority for the proposed local standard and its relationship to state and federal requirements, recognizing the local air-pollution powers preserved under Pennsylvania's Air Pollution Control Act §12.

Environmental Rights

The proposed ordinance requires an assessment of compliance with Pennsylvania's Environmental Rights Amendment and directs the Township to consider information available to staff and officials, including public submissions (§350-37.U.2 and HH). The LVPC recommends that the Township Solicitor clarify how these requirements will be applied through defined review criteria and findings supported by the hearing record. These provisions should support the Township's constitutional responsibilities while preserving the express conditional use standards required by MPC §§603(c)(2) and 913.2.

Construction

The proposed ordinance requires construction traffic planning and permits additional construction hours through administrative approval (§350-37.Z and EE). The Township Solicitor should evaluate any requirements for off-site improvements or payments under the Conditional Use Regulations (f) and §350-37.Z, considering the restrictions in MPC §603(c)(2).

Minor Plan Changes

The proposed ordinance classifies a plan change as minor if it meets any listed condition, including reduced stormwater discharge, added equipment or changes required by another agency (§350-37.AA.5). This could allow a substantial change to qualify as minor based on a single criterion. The LVPC recommends requiring minor changes to remain consistent with approved development intensity, utility demand, performance standards and conditional use conditions. The Township should also define how successive changes are counted and identify when further land development or conditional use review is required.

Administration

The proposed ordinance requires copies of agency reports and reimbursement of thermal study review costs (§350-37.GG and BB.7). The LVPC recommends specifying reporting deadlines and limiting submissions to information relevant to land use compliance. The Township Solicitor should evaluate consultant cost reimbursement against the authority and fee procedures applicable to each review stage. These revisions would support a clear and efficient development process (of Policy 1.4).

***FutureLV* Alignment**

Several provisions of the proposed amendment support best planning practices and advance policies of *FutureLV: The Regional Plan*:

Development Intensity

The proposed ordinance requires applicants to identify electrical demand for the entire

development, supporting infrastructure, generator capacity, fuel storage and cooling systems, and to prepare a master plan for data center campuses. These requirements support matching development intensity with sustainable infrastructure capacity (of Policy 1.1). Disclosure of fiber routes and associated construction impacts (§350-37.T) also supports coordinated land use decisions and utility planning (of Policies 1.4 and 2.5).

Water and Natural Resource Protection

The proposed ordinance requires water supply studies, wastewater planning, cooling-water reuse, spill containment, stormwater protection, environmental assessments and review of potential impacts to protected species (§350-37.R, U, V and W). These provisions support conserving natural resources and minimizing environmental impacts (of Policies 3.1 and 3.2).

Noise

The proposed ordinance establishes noise limits of 55 dBA during the day and 45 dBA at night at abutting residential properties and requires a professional sound assessment and post-construction testing (§350-37.C). These provisions support minimizing the environmental impacts of development (of Policy 3.2).

Community Compatibility and Emergency Planning

The proposed ordinance establishes requirements for building orientation, landscaping, building appearance, rooftop equipment screening and light spill onto neighboring properties (§350-37.I.6, J.12–J.16, M, N and O). These measures support development that responds to the character and needs of surrounding communities (of Policy 5.4).

The proposed ordinance also requires emergency access, coordination with emergency responders, construction transportation planning and space for vehicles to queue within the site (§350-37.F, S, Z and CC). These provisions support safe community design and emergency management (of Policy 5.1).

Municipalities, when considering zoning ordinance amendments, should reasonably attempt to be consistent with *FutureLV: The Regional Plan*, as required by the Pennsylvania Municipalities Planning Code (MPC) [Article 1§105, Article III§303, §304 & §306(a), Article VI§603(j)].

Sincerely,



Jill Seitz, AICP
Chief Community and Regional Planner

CC: Cindy Beck, Township Administrator